

## **6 FAM 540 USE OF FACILITIES**

*(CT:GS-168; 05-17-2012)*  
*(Office of Origin: A/OPR/CR)*

### **6 FAM 541 ACCESS TO PACKAGED DUTY-FREE GOODS**

*(CT:GS-153; 02-20-2007)*  
*(Uniform State/USAID/Commerce/Agriculture)*

- a. The issue of "access" refers to the purchase of packaged duty-free goods at the commissaries and their equivalent for off-site personal consumption. This refers to all goods, whether consumable or not, imported under the principal officer's name, for which import tariffs are waived by the host government in accordance with the terms of the Vienna Convention. Restrictions on access do not refer to opened, single-serve duty-free goods consumed on-site.
- b. In the interest of preserving good relations with the host government, a conscientious effort must be maintained to bar access (direct and otherwise) to all persons not authorized under 6 FAM 540 to utilize such facilities and services. In addition, opportunities for the illegal purchase and resale of duty-free imported goods to all unauthorized individuals must be eliminated.

### **6 FAM 542 U.S. CITIZEN AND U.S. RESIDENT ALIEN GOVERNMENT EMPLOYEES**

*(CT:GS-168; 05-17-2012)*  
*(Uniform State/USAID/Commerce/Agriculture)*

- a. All employee association services and facilities provided at a post, encompassing access to the purchase of packaged duty-free goods, are available to certain employees of all civilian and military agencies of the U.S. Government assigned to the locality abroad under the jurisdiction of the principal officer, including:
  - (1) U.S. citizen U.S. Government employees recruited from outside the host country, and their eligible family members;
  - (2) U.S. resident alien U.S. Government employees (who are not local nationals) recruited from outside the host country, and their eligible family members;

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- (3) U.S. citizen personal services contractors recruited from outside the host country and their eligible family members;
  - (4) U.S. Government employees detailed or on transfer to international organizations, and their eligible family members; and
  - (5) TDY personnel on official business.
- b. U.S. citizen and U.S. resident alien employees of contractors funded by U.S. agencies or instrumentalities, or U.S. citizens and U.S. resident aliens whose presence abroad is for the purpose of implementing U.S. federally funded programs under the jurisdiction of the principal officer, and their eligible family members, may also be extended these privileges (including access to the purchase of packaged duty-free goods) provided:
- (1) The use of Government facilities is stipulated in writing by the contracting officer or other designated official, and such privilege has been approved by the principal officer;
  - (2) The contract or program is funded at fifty-one (51) percent or more by the U.S. Government;
  - (3) The individuals have been accorded duty-free import privileges by the host country; and
  - (4) The practice is not otherwise inconsistent with the laws of the host country.

**NOTE:** The principal officer must request that contractors certify annually that 51 percent of their direct projects/contracts are funded by the U.S. Government if funding falls below this level, access privileges must be terminated.

- c. With prior approval from A/OPR/CR and A/OPR/OS, U.S. citizen teachers hired outside the host country for employment at overseas schools may have, on a limited basis, access to the purchase of packaged duty-free goods, excluding alcoholic beverages and tobacco *products provided they meet each of the following conditions:*
- (1) The operation of an American or International school at post, with at least some American teachers, is in the interest of the U.S. Government;*
  - (2) Post receives a hardship allowance or is in an underdeveloped country and U.S. or equivalent Western-type goods are not available on the local economy or are available, but at an exorbitant cost;*
  - (3) Lack of access to the commissary would create an unnecessary hardship on the American teaching staff and/or interfere with U.S. citizen teacher recruitment and retention;*
  - (4) Access by the American teaching staff to the commissary would not be unduly burdensome to commissary operations;*
  - (5) The host country does not object to such access;*
  - (6) Access to commissary products does not include alcoholic beverages and*

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*tobacco products; and,*

*(7) Access is provided only to those teachers hired outside the host country.*

- d. Locally hired U.S. citizens may be extended access to the purchase of packaged duty-free goods provided *they meet* all of the following criteria:
- (1) The individual is resident in the country in which he *or* she was hired;
  - (2) The individual has been hired as either a direct-hire employee or under a personal services contract;
  - (3) The host Government has granted the individual duty-free privileges;
  - (4) The individual has a work permit (if required by local law);
  - (5) Access is only allowed for the duration of employment with the U.S. Government; and,
  - (6) The principal officer approves.
- e. No personnel except those listed above will have access to the purchase of packaged duty-free goods. Unless the 51 percent U.S. Government funding test is met, U.S. citizens and U.S. resident aliens such as private voluntary organization employees and representatives of private sector American firms *cannot* have access to the purchase of packaged duty-free goods, even if the host government has granted these individuals or their organization some degree of duty-free import status.

## **6 FAM 543 FOREIGN SERVICE NATIONAL EMPLOYEES**

*(CT:GS-153; 02-20-2007)*

*(Uniform State/USAID/Commerce/Agriculture)*

With the exception of access to the purchase of packaged duty-free goods, utilization of all other association facilities may be extended to the U.S. Government employees of local nationality, and their eligible family members, on the approval of the board of directors provided the practice is consistent with the laws and customs of the host country and the association's bylaws.

## **6 FAM 544 THIRD-COUNTRY NATIONAL EMPLOYEES**

*(CT:GS-153; 02-20-2007)*

*(Uniform State/USAID/Commerce/Agriculture)*

- a. Third-country national direct-hire or contractor personnel, and their eligible family members, recruited from outside the host country and relocated to the host country for employment by the U.S. Government may be extended full

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employee association privileges, encompassing access to the purchase of packaged duty-free goods, if:

- (1) The principal officer approves;
  - (2) They have been accorded duty-free import privileges by the host country;
  - (3) The contractors receive at least 51% U.S. Government funding; and
  - (4) This practice is not otherwise inconsistent with the laws and customs of the host country.
- b. See 3 FAM 927.1 for a further definition of third-country national (TCN) employees as applied above.
- c. With the exception of access to the purchase of packaged duty-free goods, third-country national direct-hire or contractor personnel, and their eligible family members, recruited in-country for employment by the U.S. Government may be extended utilization of all other association facilities upon approval of the board of directors provided the practice is consistent with the laws and customs of the host country and the association's bylaws.

## **6 FAM 545 *THIRD COUNTRY DIPLOMAT PROGRAM***

*(CT:GS-168; 05-17-2012)*  
*(Uniform State/USAID/Commerce/Agriculture)*

- a. Third country diplomats (TCDs) may be extended access to the purchase of packaged duty-free goods in accordance with the Department's Third Country Diplomat Program provided each of the following conditions are met:
- (1) The principal officer approves;
  - (2) Post requests and receives A/OPR/CR approval to participate in the TCD Program;
  - (3) Host government approval has been obtained;
  - (4) *The employee association places a 10% surcharge on all purchases by TCDs. (These funds must be remitted to post annually to directly offset utilities' expense incurred by the USG in the operation of the commissary or its equivalent at post);*
  - (5) Revised bylaws are submitted to A/OPR/CR for approval; and
  - (6) All foreign missions selected to participate provide the association with written documentation of the diplomats' duty-free privileges.
- b. With the exception of access to the purchase of packaged duty-free goods, TCDs may be extended utilization of all association facilities with the approval of the board of directors provided this practice is consistent with the laws and customs of the host country and the association's bylaws.

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- c. Under TCD program provisions and upon A/OPR/CR approval access may be extended to fully accredited Diplomats of international organizations. Employee associations must seek A/OPR/CR approval for each individual international organization and impose the same surcharge required under 6 FAM 545 paragraph a.(4). Individuals in country on tourist passports may not be considered for this access.*

## **6 FAM 545.1 Commissary Support Program**

*(CT:GS-153; 02-20-2007)*

*(Uniform State/USAID/Commerce/Agriculture)*

Other embassies and international organizations which have duty-free import privileges may participate in the Commissary Support Program, provided that the host government has no objection to the association placing orders on behalf of other duty-free personnel and/or organizations. The commissary support program does not allow third country diplomats access to commissary facilities to "shop off the shelf" but rather allows other diplomatic missions to place joint orders on behalf of accredited diplomats of other diplomatic missions. Joint orders provide a means to reduce transportation and insurance costs. For its services in acting as the coordinator, the association may charge a fee for placing the joint order(s). However, the association should ensure that all organizations placing joint orders are listed on all orders and bills of lading, and their respective portions of the order are reported to the customs officials. Once received, the order should be divided amongst its purchasers. Also, should any illegal or improper activities evolve and this joint procurement be questioned as a potential source, the association must immediately cease this joint ordering practice. Participation in the program by an employee association is not mandatory.

## **6 FAM 546 GUEST USE OF RECREATIONAL FACILITIES**

*(CT:GS-153; 02-20-2007)*

*(Uniform State/USAID/Commerce/Agriculture)*

- a. The board of directors, on a selective basis and in accordance with local laws and customs of the host government, may grant access to recreational facilities to invited guests subject to such fees as may be appropriate for utilization of facilities. Association management must provide the regional security officer with a list of guests on a regular basis for review. Guests may be U.S. citizen resident's in-country, local nationals, third-country nationals, third-country diplomats, or other non-U.S. Government personnel approved by the board of directors, cleared by the regional security officer and not inconsistent with host-government laws and customs.
- b. Each guest should be sponsored by a full association member (i.e., full-time,

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direct-hire U.S. Government, U.S. citizen or their eligible family member) who is responsible for the guest's conduct while using the association's facilities. The sponsoring full member need not personally accompany the guest while he or she uses the recreation facilities. However, another full member or association representative must then be present to monitor the guest's use of the facilities. Guests cannot bring their own guests to the association facilities.

- c. The use of the snack bar, restaurant, American club, and recreational facilities does not allow a guest access to the purchase of packaged duty-free goods, including alcoholic beverages, cartons of cigarettes, food products, and/or sundries, for off-site personal consumption. Access to the purchase of packaged duty-free goods is limited to U.S. Government employees and other individuals as defined in 6 FAM 540.

## **6 FAM 547 THROUGH 549 UNASSIGNED**

*(TL:GS-35; 01-19-95)*